
Commerce & Labor Committee

HB 1311

Brief Description: Authorizing penalties for wage payment violations.

Sponsors: Representatives McCoy, Conway, Hudgins, Wood, Simpson, Moeller, Chase and Ormsby; by request of Department of Labor & Industries.

Brief Summary of Bill

- Requires employers that violate wage payment laws to pay workers unpaid wages and interest on such wages.
- Establishes civil penalties for violations of minimum wage and wage payment laws.

Hearing Date: 1/24/05

Staff: Jill Reinmuth (786-7134).

Background:

The state Minimum Wage Act and other laws establish standards for the payment of wages. These standards are enforced by the Department of Labor and Industries (Department), which has authority to investigate wage violations, order the payment of wages owed to workers, and bring civil actions to collect wages. Employees are also permitted to bring civil actions to collect unpaid wages. Criminal penalties apply to certain violations.

An employer who pays an employee less than the amount to which the employee is entitled is liable in a civil action to the employee, even if the employee agreed to work for less. If the employee is successful in obtaining a judgment for wages owed, attorneys' fees are assessed against the employer, unless the recovery is equal to or less than the amount the employer admitted to be owing.

An employer is also liable in a civil action to the employee or employee's assignee for collecting a rebate from employees' wages and for paying a lower wage than obligated by law or contract when the paying of lower wages is willful and is done with intent to deprive. In this case, the employer is subject to exemplary damages of twice the amount of wages withheld.

The Department may investigate wage violations, order employers to pay, and institute actions to collect after a determination that sums are owed. The Department also may take assignments of wage claims and prosecute actions for employees who are financially unable to employ counsel.

A three-year statute of limitation applies to a number of causes, including an action on an unwritten contract (six years for written contract). The statute of limitations is two years for any action with no other limit specified.

Summary of Bill:

The Legislature makes certain findings related to the state Minimum Wage Act and wage claim laws. In particular, the Legislature finds that the penalties for violating these laws are inadequate, and that the Department of Labor and Industries (Department) should be allowed to impose civil penalties and assess interest on back wages.

An employer that violates the state Minimum Wage Act may be assessed a penalty of not less than \$100 and not more than \$1000 per violation per employee.

An employer that violates wage payment laws must pay wages due, including interest of up to 1 percent per month on unpaid wages, to the worker. The employer must be assessed civil penalties of not more than ten times the wages due for each violation per employee. The employer is also guilty of a misdemeanor.

The director of the Department is authorized to waive collection of penalties in favor of payment of wages. The director is also authorized to order payment of wages determined to be unpaid, including interest on unpaid wages. The Department need not take an assignment of a wage claim before bringing a civil action to collect unpaid wages.

In addition, the director is authorized to assess civil penalties. Certain factors that the director may consider when determining the amount of penalties are specified. Civil penalties are paid to the director of the Department, and are deposited in the supplemental pension fund.

Procedures are established for: (1) Administrative review of citations or notices of assessment; and (2) collection of unpaid wages and civil penalties.

Civil actions under wage payment laws must be commenced within three years after the cause of action accrues, unless a longer period of time applies under law.

Private rights of action against employers for unpaid wages are preserved.

Other technical corrections are made.

Rules Authority: The bill authorizes the director of the Department of Labor and Industries to adopt rules to carry out the purposes of the state Minimum Wage Act and wage claim laws.

Appropriation: None.

Fiscal Note: Requested on January 20, 2005.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.